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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,900	04/24/2006	Waldemar Hans	10191/4168	1824
26646	7590	09/24/2007		
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER FRISTOE JR, JOHN K	
			ART UNIT	PAPER NUMBER
			3753	
			NOTIFICATION DATE	DELIVERY MODE
			09/24/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@kenyon.com

## Office Action Summary

Application No.

10/540,900

Applicant(s)

HANS ET AL.

Examiner

John K. Fristoe Jr.

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/27/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 6/27/2005 is acknowledged by the examiner.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

3. The declaration must be amended to state “material to patentability” instead of “material information” as well as “1.56” instead of “1.56(a)”.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Pat. No. 6,422,488 (Fochtman et al.). Fochman et al. disclose a valve for controlling fluid comprising a valve housing (34), a valve armature (14), an actuation unit (28), a closure member (17), a guidance collar (14a), a second guidance arrangement including a leaf spring (80), radial outlet orifices (60), wherein the leaf spring (80) is annular (figure 7), flow passages (90), a valve bushing (36), a constriction (adjacent spring 30 in figure 2), a throttling element (82), a flow

Art Unit: 3753

through cross section (upper cross section of seat 40) that us at least two or three times (figure 2) a flow through cross section of the throttling element (82), a damping tube (within element 83) which has a cross section of at least three times (figure 2) the throttling element (82), and wherein the fluid is a gas (abstract).

Regarding the “drawn” recited in claim 21, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,422,488 (Fochtman et al.) in view of U.S. Pat. No. 5,566,920 (Romann et al.). Fochman et al. disclose a valve for controlling fluid comprising a valve housing (34), a valve armature (14), an actuation unit (28), a closure member (17), a guidance collar (14a), a second guidance arrangement including a leaf spring (80), radial outlet orifices (60), wherein the leaf spring (80) is annular (figure 7), flow passages (90), a valve bushing (36), a constriction (adjacent spring 30 in figure 2), a throttling element (82), a flow through cross section (upper cross section of seat 40) that us at least two or three times (figure 2) a flow through cross section of the throttling element (82), a damping tube (within element 83) which has a cross section of at least three

Art Unit: 3753

times (figure 2) the throttling element (82), and wherein the fluid is a gas (abstract) but lacks the damping tube having a length that is ten times that of the throttling element. Romann et al. teach a valve for controlling fluids comprising a throttling element (23) and a damping tube (21) that is at least ten times the length (figure 1) that of the throttling element (23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the valve for controlling fluids of Fochtman et al. by extending the damping tube as taught by Romann et al. in order to further damp the fluid flowing through the outlet orifice.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,860,601 (Egizi) discloses a leaf spring guide.

U.S. Pat. No. 5,632,467 (Just et al.) disclose a long damping tube.

U.S. Pat. No. 6,003,791 (Reiter) discloses a leaf spring guide.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3753

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./  
John K. Fristoe Jr.  
Examiner  
Art Unit 3753

JKF